

23714
MORTGOW

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-207205

DATE: December 6, 1982

MATTER OF: Jets Services, Inc.

DIGEST:

1. Protest against contracting officer's denial of request to extend proposal due date filed prior to closing date for receipt of initial proposals is timely.
2. Determination of date for receipt of initial proposals is for contracting agency and GAO will not question such determination where, as here, the record establishes that the date was not arbitrarily or capriciously selected and that the procuring agency achieved adequate competition.
3. Allegation that procuring activity mailroom personnel mishandled request for extension of proposal due date, denied by the procuring agency and unsupported by evidence, is speculation. In any event, extension request was considered by contracting officer well before due date.

Jets Services, Inc. (JSI), protests the award of a contract under negotiated solicitation No. DAAJ09-82-R-A357, issued by the Department of the Army, United States Army Troop Support and Aviation Materiel Readiness Command, St. Louis, Missouri, for nonpersonal support services. For the reasons that follow, we deny the protest.

The procuring agency issued the solicitation on March 5, 1982. The closing date for receipt of initial proposals was April 22, 1982. Between March 12 and March 24, JSI indicates it sent two letters and two telegrams requesting an extension of the proposal preparation period. A site visit and preproposal conference were conducted on March 25 and 26, 1982. During this period, JSI alleges that it participated with others in a written request for an extension which was hand-delivered to the contracting officer. On March 29, the contracting officer, by letter, denied the request.

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JSI argues that the competition should be reopened because it and others did not submit proposals since the procuring agency improperly did not allow sufficient time for proposal preparation after the conference and site visit. In JSI's opinion, the contracting officer refused the extension request to reduce the number and quality of offers to benefit the incumbent. JSI finally asserts that its earlier extension requests were mishandled by employees in the procuring activity mailroom because it is staffed by the incumbent contractor which also was competing for the contract.

The procuring agency contends that the protest is untimely under section 21.2(b)(2) of our Bid Protest Procedures (4 C.F.R. part 21 (1982)), which requires that protests involving matters other than apparent solicitation improprieties be filed not later than 10 days after the basis for the protest is known or should have been known, whichever is earlier. However, this protest relates to an apparent solicitation impropriety which will be considered since JSI's protest was filed here before the closing date for the receipt of initial proposals. 4 C.F.R. § 21.2(b) (1).

The regulations concerning negotiated procurements, unlike the regulations governing formal advertising, do not specify a definite time period to be allowed for preparing proposals. Accordingly, we have held that the date set for the receipt of initial proposals is a matter of judgment vested in the contracting officer which we will not question unless the record shows that it was arbitrarily or capriciously selected or that it unduly restricts competition. Our Office therefore is concerned with whether all offerors were treated equally and adequate competition obtained, not with whether every firm had an opportunity to compete. The Kuljian Corporation, B-203717, August 28, 1981, 81-2 CPD 185.

JSI has not shown that the agency time allowance for proposal preparation was established for any reasons other than to insure continuity of the required services, to permit a sufficient time for proposal evaluation, and to permit sufficient time for a phase in of the follow-on contractor. Moreover, the record reveals that 125 firms were solicited; that as of the date the contracting officer denied the extension request, only 14 firms had declined to propose; and that only seven firms were denied extension requests. Also, five firms prepared and submitted proposals in a timely manner and the award was not made to the incumbent. Consequently, under the above standard, we do not find that the time for proposal preparation was unreasonable or inadequate.

Although JSI alleges that the procuring activity mailroom employees mishandled its earlier extension requests, the procuring agency denies these allegations and the record lacks any evidence in support; accordingly, we assume that JSI is speculating on these grounds. In any event, JSI's extension request was considered well before the closing date.

We deny the protest.

Milton J. Fowler
for Comptroller General
of the United States